



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/605,168 | 09/12/2003 | Martin L. Radue | BMCA9159.232 | 2167 |
| 27062 | 7590 | 06/30/2005 | EXAMINER | |
| BOMBARDIER RECREATIONAL PRODUCTS INC. INTELLECTUAL PROPERTY DEPT PO BOX 230 NORTON, VT 05907-0230 | | | HOANG, JOHNNY H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3747 | |
| DATE MAILED: 06/30/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

| | | |
|------------------------------|-----------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/605,168 | RADUE, MARTIN L. |
| Examiner | Art Unit | |
| Johnny H. Hoang | 3747 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-26 is/are pending in the application.
- 4a) Of the above claim(s) 23-26 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 September 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>09/12/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the claims 15-22 in the reply filed on April 04, 2005 is acknowledged. The traversal is on the ground(s) that search and examination of the application could be made without serious burden. The "same classification" argument is not found persuasive because even though classified together Groups III and IV are directed to divergent subject matter.

The requirement is still deemed proper and is therefore made FINAL.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the reference to US patent 6,398,511 in the second line below the title appears erroneous.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

Art Unit: 3747

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 15-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Peltier (US 6,671,611 B1).

Regarding claim 15, the reference of Peltier discloses a method and apparatus for identifying parameters of an engine component for assembly and programming including the following subject matters: a method of servicing an engine requiring fuel injector replacement comprising the steps of:

identifying a fuel injector in need of replacement by cylinder number (col. 19, lines 31-41);

establishing communication between a service computer and an ECU of the engine [col. 14, lines 9-35; and col. 19, lines 31-41];

downloading ECU (604), engine, and fuel injector data from the ECU (604) to the service computer (606) [col. 19, lines 31-41];

writing replacement fuel injector time delay data in the ECU (604) for a replacement fuel injector for the cylinder number identified [col. 19, lines 31-41]; and

installing the replacement fuel injector in the cylinder number identified (above rejections).

Regarding claims 16, as discussions of claim 15.

Regarding claim 17, as discussed in claim 15, the reference of Peltier further teaches displaying an injector serial number and Injector type for each cylinder;

determining if the replacement fuel injector time delay data has been uploaded previously; and if so, determining whether any injector serial number in the engine matches a

Art Unit: 3747

serial number of the replacement fuel injector; and if so, allowing restoration of the existing fuel injector time delay data (col. 19, line 42 through col. 20, line 52).

Regarding claim 18, as above discussions.

Regarding claim 19, as above discussions, the reference of Peltier further teaches a computer readable storage medium 616.

Regarding claims 20-22, as discussed as the same rejection of the method for servicing of claims 15-19.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (571) 272-4843. The examiner can normally be reached on Monday - Thursday (7:00Am-5:30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH
June 21, 2005

Johnny H. Hoang
Examiner
Art Unit 3747

Tony Argonbright
Tony M. Argonbright
Primary Examiner
Art Unit 3747